

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

United States District Court
Southern District of Texas
FILED

JUN 10 2011

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ANGEL HERNANDEZ,

David J. Bradley, Clerk of Court

Plaintiff,

-against-

**COMPLAINT AND
JURY DEMAND**

PIPE TRACKING INSPECTIONS, INC.,
a Texas Corporation,

Defendant.

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NATURE OF THE ACTION

1. Plaintiff alleges that he is: (i) entitled to unpaid overtime wages from Defendant for work performed for which he did not receive proper overtime premium pay, in violation of 29 U.S.C. § 207(a)(1) and 29 U.S.C. § 215(a)(2), (ii) entitled to liquidated damages pursuant to the FLSA, 29 U.S.C. §§201 *et seq*; and (iii) declaratory relief pursuant to Rule 57, Fed.R.Civ.P., and the Federal Declaratory Judgment Act (“DJA”), 28 U.S.C. § 2201.

JURISDICTION AND VENUE

2. This Court has subject matter jurisdiction over this matter pursuant to 28 U.S.C. §§ 1331 and 1337, 1343. In addition, the Court has jurisdiction over Plaintiff's claims under the FLSA pursuant to 29 U.S.C. § 216(b) (“FLSA”).

3. Venue is proper in this district pursuant to 28 U.S.C. §1331.

4. This Court is empowered to issue a declaratory judgment pursuant to 28 U.S.C. §§ 2201 *et seq*.

THE PARTIES

5. Plaintiff, ANGEL HERNANDEZ was, at all relevant times, an adult individual, residing in Marion County, Florida.

6. Upon information and belief, Defendant PIPE TRACKING INSPECTIONS, INC. is a Texas corporation, with a principal place of business in Harris County, Texas.

STATEMENT OF FACTS

7. At all relevant times, Defendant provided, among other things, by providing innovative QAQC Inspection Services & Pipe Tracking technological solutions regarding Oil & Gas industry.

8. Starting in or about December 17, 2009 through July 15, 2010, Plaintiff was employed as a Pipe Tracking & System Manager by the Defendant.

9. In this capacity, Plaintiff was employed at Defendant's Houston, Texas facility, and he performed work for Defendant.

10. Plaintiff's work was performed in the normal course of the Defendant's business and was integrated into the business of the Defendant.

11. The work performed by Plaintiff required little skill and no capital investment. His duties did not include managerial responsibilities or the exercise of independent discretion or judgment.

12. Plaintiff often worked in excess of 40 hours a week, yet the Defendant willfully failed to pay Plaintiff overtime compensation of one and one-half times his regular hourly rate, in violation of the FLSA.

13. Throughout all relevant time periods, while Defendant employed Plaintiff, the Defendant failed to maintain accurate and sufficient time records and failed to post or keep

posted a notice explaining the minimum wage and overtime pay rights provided by the FLSA.

FIRST CLAIM FOR RELIEF:
FAIR LABOR STANDARDS ACT

14. Plaintiff re-alleges and incorporates by reference paragraphs 1 through 13 as if they were set forth herein.

15. At all relevant times, Defendant has been and continue to be, employer engaged in interstate commerce and/or the production of goods for commerce, within the meaning of the FLSA, 29 U.S.C §§ 203 (r), 203(s), 206(a) and 207(a).

16. At all relevant times, Defendant employed Plaintiff within the meaning of the FLSA.

17. Upon information and belief, at all relevant times, Defendant has had gross revenues in excess of \$500,000.

18. At all material times relevant to this action, Defendant, PIPE TRACKING INSPECTIONS, INC., has been an enterprise involved in interstate commerce by handling handling, selling, or otherwise working on goods or materials that have been moved in or produced for such commerce. (i.e. engineering and inspection equipment).

19. At all material times relevant to this action, Defendant has also been an enterprise involved in interstate commerce by providing services or delivering a product to customers from out of state. (i.e. Pipe Tracking Inspection, Inc., provides QAQC Inspections, Staffing, Manpower & Pipeline Traceability Technology Solutions Services – Worldwide) (i.e. Pipe Tracking Inspection, Inc., recently signed a 4 year contract to provide project support and pipeline traceability services for Chevron - Australia Division).

20. At all material times relevant to this action, Defendant, PIPE TRACKING INSPECTIONS, INC., has been an enterprise involved in interstate commerce by accepting payments from customers based on credit cards issued by out of state banks.

21. At all material times relevant to this action, Defendant, PIPE TRACKING INSPECTIONS, INC., has been an enterprise involved in interstate commerce by using the telephone or computers to place and accept business calls. (i.e. Toll free number: 1-888-537-6404 / Website: www.pipetracking.net / Email: sales@pipetracking.net).

22. At all material times relevant to this action, Defendant also used the U.S. Mail to receive letters to and from other states. (i.e. Pipe Tracking Inspections Inc., 16151 Cairnway Drive # 106, Houston, TX 77084-3554).

23. Plaintiff consents in writing to be a party to this action, pursuant to 29 U.S.C. §216(b). Plaintiff's written consent is attached hereto as **EXHIBIT "A"** and incorporated by reference.

24. At all relevant times, the Defendant had a policy and practice of refusing to pay proper overtime compensation to Plaintiff for the hours worked in excess of forty hours per week.

25. As a result of the Defendant's willful failure to compensate Plaintiff for overtime at a rate not less than one and one-half times the regular rate of pay for work performed in excess of forty hours in a workweek, the Defendant has violated the FLSA, 29 U.S.C. §§201 *et seq.*, including 29 U.S.C. §§207(a)(1) and 215(a).

26. As a result of the Defendant's failure to record, report, credit and/or compensate Plaintiff, the Defendant has failed to make, keep and preserve records with respect to each of its employees sufficient to determine the wages, hours and other conditions

and practices of employment in violation of the FLSA, 29 U.S.C. §§ 201, *et seq.*, including 29 U.S.C. §§ 211(c), 215(a) and 29 C.F.R. Part 516.

27. The foregoing conduct, as alleged, constitutes a willful violation of the FLSA within the meaning 29 U.S.C § 255(a).

28. Due to the Defendant's FLSA violations, Plaintiff is entitled to recover from the Defendant, the unpaid wages, overtime compensation, an additional amount equal as liquidated damages, additional liquidated damages for unreasonably delayed payment of wages, reasonable attorneys' fees, and costs and disbursements of this action, pursuant to 29 U.S.C. § 216(b).

PRAYER FOR RELIEF

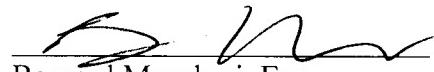
Wherefore, Plaintiff respectfully requests that this Court grant the following relief:

- a. A declaratory judgment that the practices complained of herein are unlawful under the FLSA;
- b. An award of unpaid wages and overtime compensation due under the FLSA;
- c. An award of liquidated and/or punitive damages as a result of the Defendant's willful failure to pay wages and overtime compensation pursuant to 29 U.S.C § 216;
- d. An award of prejudgment and post judgment interest;
- e. An award of costs and expenses of this action together with reasonable attorneys' and expert fees; and
- f. Such other and further relief as this Court deems just and proper.

DEMAND FOR TRIAL BY JURY

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Plaintiff demands a trial by jury on all questions of fact raised by the complaint.

Dated: May 14th, 2011.



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Trial Counsel for Plaintiff

¹ Carlos Leach will be filing a Motion to Appear Pro Hac Vice.

EXHIBIT A

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NOTICE OF FILING NOTICE OF CONSENT TO JOIN

Plaintiff, ANGEL HERNANDEZ, gives notice of filing his Notice of Consent to Join the above-styled lawsuit.

DATED this 14th day of May, 2011.


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